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In re Application of  
GODA, Yoshio et al.  
Application No.: 09/980,880  
PCT No.: PCT/JP01/01457  
Int. Filing Date: 27 February 2001  
Priority Date: 28 February 2000  
Attorney Docket No.: MAT-8189US  
For: TOP SEALING PLATE, BATTERY  
USING THE TOP SEALING PLATE,  
AND METHOD OF  
MANUFACTURING THE BATTERY

DECISION ON  
PETITION  
UNDER 37 CFR 1.181

This decision is in response to "Renewed Petition Under 37 CFR 1.181," filed with the United States Patent and Trademark Office on 26 December 2002.

**BACKGROUND**

On 27 February 2001, applicants filed international application PCT/JP01/01457. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 August 2001.

On 29 October 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 January 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 03 September 2002, applicants filed a petition accompanied by the docket records for the instant application.

On 02 December 2002, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicants' petition without prejudice.

**DISCUSSION**

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not*

*Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) was previously met.

Items (2) and (3) have now been satisfied. Practitioner states that a search of the file jacket and docket records indicates that the Office action was not received and has provided the docket records where the non-received Office action would have been docketed had it been received.

The 03 September 2002 declaration satisfied the requirements of 37 CFR 1.497(a)-(b).

### CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 24 January 2002 is **VACATED**.

The application has an international filing date of 27 February 2001 under 35 U.S.C. §363 and a date of **03 September 2002** under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.



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